

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff,	§	
v.	§	
	§	CRIMINAL ACTION NO. 4:11-CR-166
MISTY LYNETT BRIGHAM (3),	§	
	§	
Defendant.	§	

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on May 23, 2019, to determine whether Defendant violated her supervised release. Defendant was represented by Robert Arrambide. The Government was represented by Camelia Lopez.

Misty Lynett Brigham was sentenced on November 5, 2012, before The Honorable Marcia A. Crone of the Eastern District of Texas, after pleading guilty to the offense of Conspiracy to Possess with Intent to Distribute Cocaine Base, a Class A felony. This offense carried a statutory maximum imprisonment term of life. The guideline imprisonment range, based on a total offense level of 31 and a criminal history category of I, was 108 to 135 months. Misty Lynett Brigham was subsequently sentenced to 108 months of imprisonment, followed by a 5-year term of supervised release, subject to the standard conditions of release, plus special conditions to include financial disclosure, drug treatment and testing, mental health treatment, and a \$100 special assessment. On May 11, 2015, the defendant's term of imprisonment was reduced to 87 months pursuant to 18 U.S.C. § 3582(c)(2). The Defendant's term of imprisonment was reduced a second

time on September 8, 2015, to 43 months under Rule 35(b) of the Federal Rules of Criminal Procedure. On October 9, 2015, Misty Lynett Brigham completed her period of imprisonment and began service of the supervision term.

On May 6, 2019, the U.S. Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. #908, Sealed]. The Petition asserted that Defendant violated two (2) conditions of supervision, as follows: (1) The defendant shall refrain from any unlawful use of a controlled substance; and (2) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.

The Petition alleges that Defendant committed the following acts: (1) and (2) On March 21, 2018, the defendant submitted a urine specimen which tested positive for marijuana. The specimen was confirmed positive by Alere Toxicology Services. On April 16, April 23, April 30, and May 4, 2018, the defendant submitted urine specimens which tested positive for marijuana. Interpretation Reports were obtained from Alere Toxicology Services on May 7 and May 21, 2018, which indicated the defendant reused marijuana prior to each of these collection dates. On May 30, 2018, the defendant submitted a urine specimen which tested positive for marijuana. An Alere Toxicology Services report was received on June 6, 2018, confirming the positive specimen. On April 3, 2019, the defendant submitted a urine specimen which tested positive for marijuana. An Alere Toxicology Services report was received April 15, 2019, confirming the positive specimen. On April 29, 2019, the defendant submitted a urine specimen which tested positive for marijuana. An Alere Toxicology Services report was received May 5, 2019, confirming the positive specimen.

Prior to the Government putting on its case, Defendant entered a plea of true to both allegations of the Petition. Having considered the Petition and the plea of true to allegations one (1) and two (2), the Court finds that Defendant did violate her conditions of supervised release.

Defendant waived her right to allocute before the District Judge and her right to object to the report and recommendation of this Court.

### **RECOMMENDATION**

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that she be committed to the custody of the Bureau of Prisons to be imprisoned for a term of three (3) months, followed by twelve (12) months of supervised release. The Court recommends that the following special conditions be reimposed:

- (1) You must provide the probation officer with access to any requested financial information for purposes of monitoring employment; and
- (2) You must participate in a program of testing and treatment for substance abuse and follow the rules and regulations of that program until discharged. The probation officer, in consultation with the treatment provider, will supervise your participation in the program. You must pay any cost associated with treatment and testing.

The Court also recommends that Defendant be housed in the womens' Bureau of Prisons facility at Carswell, if appropriate.

**SIGNED this 3rd day of June, 2019.**



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Christine A. Nowak  
UNITED STATES MAGISTRATE JUDGE